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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/516,615	03/01/2000	Douglas Duane Coolbaugh	BU9-99-190 (13020)	3878

7590

03/07/2003

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EXAMINER

NGUYEN, CUONG QUANG

ART UNIT

PAPER NUMBER

2811

DATE MAILED: 03/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/516,615

Applicant(s)

COOLBAUGH ET AL.

Examiner

Cuong Q Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 24-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

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DETAILED ACTION

1. The Notice of Allowability filed on 11-05-02 has been withdrawn due to newly found art US 6,251,720.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 24-30 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. the material "SiGe polysilicon" is impossible to make because polysilicon can not be SiGe.

Noted that the term "SiGe polysilicon" in the specification and in the claims should be changed to "SiGe".

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

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Claims 24-26 insofar as in compliance with 35 U.S.C 112 are rejected under 35 U.S.C. 102(e) as being anticipated by Thakur et al. (US 6,251,720).

Thakur et al. discloses a semiconductor device including a capacitor structure formed on a semiconductor substrate (101) comprising: a lower plate electrode (104); an insulator structure (102) formed on the lower plate electrode; an upper plate electrode (106) formed on the insulator structure, wherein the upper and lower plate electrodes are formed of SiGe (Thakur et al.'s col.7, lines 65-67 and col.8 lines 1-5). See Thakur et al.'s Fig.1A.

Regarding claim 25, Thakur et al. teaches that the lower plate electrode can be formed of polysilicon. Thakur et al.'s col.7, lines 65-67 and col.8 lines 1-5.

Claim 27 is rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Thakur et al.

Thakur et al. teaches that a gate electrode (110) of a FET formed of polysilicon (Thakur et al.'s col.7, lines 24-26) which is the same material for forming the lower plate electrode (in case the lower electrode is formed of polysilicon).

Thakur et al. does not teach that the lower plate electrode is formed of polysilicon from the gate electrode of the FET. However, the limitation "one said plate electrodes is polysilicon from a FET gate" is taken to be a product by process limitation, it is the patentability of the claimed product and not of recited process steps which must be established. Therefore, when the prior art discloses a product which reasonably

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appears to be identical with or only slightly different than the product claimed in a product-by process claim, a rejection based on sections 102 or 103 is fair. A product by process claim directed to the product per se, no matter how actually made, *In re Hirao*, 190 USPQ 15 at 17 (footnote 3). See *In re Fessman*, 180 USPQ 324,326(CCPA 1974); *In re Marosi et al.*, 218 USPQ 289,292 (Fed. Cir. 1983); and particularly *In re Thorpe*, 227 USPQ 964,966 (Fed. Cir. 1985), all of which make it clear that it is the patentability of the final structure of the product "gleaned" from the process steps, which must be determined in a "product by process " claim, and not the patentability of the process. See also MPEP 2113. Moreover, an old or obvious product produced by a new method is not a patentable product, whether claim in "product by process" claim or not.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thakur et al. in view of Lee (US 6,150,701).

Thakur et al. teaches all the limitations of claim 24 as shown above and further teaches that the semiconductor device is a DRAM device including a peripheral circuit

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region (Thakur et al.'s col.1 lines 12-20) and the capacitor structure isolated from other regions by isolation regions (214). Thakur et al.'s col.7.

Thakur et al.. does not explicitly teach that the DRAM device further including a bipolar device region and a FET region, wherein the capacitor, bipolar device region and FET region are electrically isolated from each others by isolation regions.

Lee discloses a circuitry in a DRAM memory device comprising: a bipolar device region (Q3); a FET region (Q2), wherein bipolar device region and FET region are electrically isolated from each others by isolation region (a). See Lee's Fig.2, col.1 lines 12-22 and col.2 lines 37-45.

It would have been obvious to one of ordinary skill in the art to incorporate the circuitry as taught by Lee into Thakur et al.'s DRAM device in order to stabilize the current-voltage characteristic of input pad in peripheral circuit region of the DRAM memory device. See Lee's Col.7 lines 1-6.

It is noted that, the capacitor structure in Wu et al.'s device isolated from other active regions by isolation regions (214), therefore it would have been obvious to one of ordinary skill in the art, when incorporating the circuitry as taught by Lee into Thakur et al.'s device, forming the bipolar device region and FET region isolating from the capacitor by isolation region.

Response to Arguments

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5. Applicant's arguments with respect to claims 24-30 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Technology center (TC) 2800 by facsimile transmission. Papers should be faxed to TC 2800 via the TC 2800 Fax center located in Crystal Plaza 4, room 4-C23.

The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Group 2811 Fax Center number is (703) 308-7722 and 308-7724. The Group 2811 Fax Center is to be used only for papers related to Group 2811 applications.

6. Any inquiry concerning this communication or any earlier communication from the Examiner should be directed to CUONG Q NGUYEN whose telephone number is (703) 308-1293. The Examiner is in the Office generally between the hours of 6:30 AM to 5:00 PM (Eastern Standard Time) Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor TOM THOMAS who can be reached on (703) 308-2772. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7722 or 308-7724.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center Receptionists whose telephone number is 308-0956.

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A handwritten signature in black ink, appearing to read 'Cuong Nguyen', with a stylized, cursive script.

Cuong Nguyen

Primary examiner

March 5, 2003